

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

<b>BEVERLY C. DAGGETT, et al.,</b>	)	
	)	
<b>PLAINTIFFS</b>	)	
	)	
<b>v.</b>	)	<b>Civil No. 98-223-B-H</b>
	)	
<b>PETER B. WEBSTER, et al.,</b>	)	
	)	
<b>DEFENDANTS</b>	)	

**ORDER ON LIMITED REMAND**

The Court of Appeals has requested that I clarify my rejection of the plaintiffs’ argument that Maine’s \$250 limit for private political donations “contribute[s] to the alleged coercion of the public funding scheme.” Daggett v. Commission on Governmental Ethics and Election Practices, No. 99-2243, slip op. at 2 (1st Cir. Jan. 12, 2000).

To date, I have said that under constitutional requirements any public funding program must be voluntary. See Daggett v. Webster (“Daggett I”), \_\_\_ F. Supp.2d \_\_\_, 1999 WL 1034520, \*3 (D. Me. 1999) (citing Vote Choice, Inc. v. DiStefano, 4 F.3d 26, 38 (1st Cir. 1993)). I have also found that Maine’s public funding program is voluntary under the standards set out in Buckley v. Valeo, 424 U.S. 1 (1976) and Vote Choice. See Daggett I, 1999 WL at \*3. At the time I ruled on voluntariness, I had not yet ruled on the constitutionality of Maine’s \$250 limit for private contributions. But I stated that in finding the Maine public funding program voluntary, I assumed for purposes of that decision that the \$250 contribution limit ultimately would be upheld. See id. at \*9 n.15. Finally, I recently ruled that the \$250 private contribution limit itself is constitutional and

that it does not starve election debate. See Daggett v. Webster (“Daggett II”), Civ. No. 98-223-B-H, slip op. at 2, 5-8 (D. Me. Jan. 7, 2000).

I interpret the Court of Appeals’s uncertainty about my ruling, therefore, to be as follows: Have I ruled on whether, even if the \$250 contribution limit itself is constitutional in isolation, the limit’s level somehow prevents a public funding system like Maine’s from being voluntary, a requirement under Vote Choice? Put another way, even if Maine constitutionally can have a campaign contribution limit of \$250 (as I have held), and even if Maine constitutionally can have its public funding program for elections (as I have also held), I am to clarify whether I have ruled on whether Maine constitutionally can have both simultaneously.

The answer is yes. If the \$250 limit alone is constitutional—on the basis that it does not starve adequate campaign debate or unduly interfere with freedom of association under First Amendment analysis—then its existence can impair the voluntariness of the choice between private and public funding only if the public funding is so rich by comparison that a candidate has no realistic alternative but to accept public funding. In Daggett I, I explained why that was not so and why the financing choice in Maine is realistic. Maine’s public funding system imposes initial fundraising burdens (seed money and qualifying contributions) that a privately financed candidate does not bear, see 21-A M.R.S.A. § 1125(2) & (3) (West Supp. 1999), and there is a fixed ceiling (twice the original distribution) above which public funding cannot go, see id. at § 1125(9), whereas private contributions—though individually limited in amount—are unlimited in volume, see id. at §§ 1015(1) & (2), 1056(1). The \$250 contribution limit does not coerce a candidate into applying

for public funding.<sup>1</sup> Even the plaintiff candidates are divided on whether they will choose public funding.<sup>2</sup>

The final deadline for choosing whether to accept public funding for the upcoming campaign is March 16, 2000. See 21-A M.R.S.A. §§ 1125(1), 1122(8), 1125(5) (West Supp. 1999). Thus, if this matter is of continuing concern to the Court of Appeals and depending on when it expects to rule, that Court may wish to ask the parties to supplement the record to reveal how many candidates have already chosen public funding and how many candidates have disclosed their intention to stick with private financing. That would reveal in concrete terms whether the private limit is having a coercive effect. I do not construe the scope of the remand—“on the basis of the record before it,” Daggett v. Commission on Governmental Ethics and Election Practices, No. 99-2243, slip op. at 2 (1st Cir. Jan. 12, 2000)—to permit me to enlarge the record in this respect.

I trust that this clarification is responsive to the Court of Appeals’s remand.<sup>3</sup>

---

<sup>1</sup> In Vote Choice, 4 F.3d at 39, the Court said: “The state need not be completely neutral on the matter of public financing of elections. When, as now, the legislature has adopted a public funding alternative, the state possesses a valid interest in having candidates accept public financing because such programs facilitate communication by candidates with the electorate, free candidates from the pressures of fundraising, and, relatedly, tend to combat corruption.” (Quotation and citations omitted).

<sup>2</sup> Cf. Daggett Dep., vol. 2, at 124 l. 4 - 130 l. 11 (stating in July 1999 that she was uncertain whether she would elect the public funding alternative in the 2000 campaign), with Fuller Decl. ¶ 6 (declaring in November 1998 that she would not elect the public funding alternative in the 2000 campaign), Cenci Decl. ¶ 7 (declaring in November 1998 that he would not elect the public funding alternative in the 2000 campaign as a matter of principle), Levasseur Decl. at ¶ 5 (same), Weinstein Decl. ¶ 5 (same).

<sup>3</sup> I do note one other ambiguity or conflict in the two judgments I have entered. In the second decision, dealing with the private contribution limits, I declined to rule on the challenge to the gubernatorial limits and dismissed that claim without prejudice. In the first decision, dealing with the public funding provisions, I observed in a footnote that I would not discuss those portions of the statute that deal with the gubernatorial election because the upcoming election does not involve the governorship and none of the plaintiffs purport to be running for governor. That reservation, however, was not reflected in the judgment entered, a general judgment in favor of the defendants. That claim against the public funding provisions so far as they affect the gubernatorial election should analogously have been dismissed without prejudice.

**SO ORDERED.**

**DATED THIS 14TH DAY OF JANUARY, 2000.**

---

**D. BROCK HORNBY**  
**UNITED STATES CHIEF DISTRICT JUDGE**